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EFFECTIVE FUNCTIONING OF BODIES ESTABLISHED PURSUANT TO THE UNITED NATIONS HUMAN RIGHTS INSTRUMENTS

Report of the Secretary-General

Addendum

1. The present addendum contains comments by the Governments of New Zealand and Sweden on the report of the independent expert of the Commission on Human Rights on enhancing the functioning of the United Nations human rights treaty system (E/CN.4/1997/74) which were received subsequent to the publication of the main report.

A. Towards universal ratification

2. The Government of New Zealand expressed strong support for the goal of universal ratification of the six core human rights treaties. It concurred with the finding of the independent expert that the administrative burden of acceding to and reporting under the treaties, as well as associated resource implications, could present a barrier to ratification for many States. It therefore endorsed the recommendations of the independent expert on measures to assist States in developing the capacity to ratify the core treaties, including the development of improved technical cooperation programmes and the involvement of the specialized agencies in providing advisory services.

3. The Government of Sweden drew attention to the fact that the aim of achieving universal ratification of the six core treaties had been frequently affirmed, including at the 1993 World Conference on Human Rights. It agreed that concrete measures aimed at encouraging and facilitating ratification of the treaties were needed, inter alia, by providing technical cooperation.

B. The problem of significantly overdue reports

4. The Government of New Zealand agreed with the assessment that reporting obligations represented a substantial burden, particularly for States that had ratified all six of the core treaties and on small and developing States. It considered it important that adequate advisory services and technical cooperation be made available to such States, particularly when reports were overdue, and welcomed the suggestion that the Office of the High Commissioner for Human Rights provide special assistance to developing countries with a population of less than 1 million, including with the process of ratification and the preparation of initial reports. The Government of New Zealand expressed support, as a short-term measure when reports were excessively overdue, for the possibility that States might be examined in the absence of a report, as was the practice with some treaty bodies.

5. The Government of Sweden believed that the rise in the number of overdue reports and cases of non-reporting was partly due to the lack of the necessary technical, administrative or financial resources by many States. It considered the possibility of easing the reporting requirements under certain circumstances to merit further exploration. It drew attention to the option of eliminating comprehensive periodic reports in their present form and replacing them, under certain circumstances, by reporting guidelines tailored to each State's individual situation and focusing on certain human rights obligations of particular interest. When a situation so warrants, the treaty bodies could request an additional report from a State party to address questions of implementation in a more flexible and focused manner.

6. The Government of Sweden agreed that the technical cooperation programme for the preparation of reports, for those States in need of assistance, should be accorded priority. In cases of non-reporting, Sweden stressed that it found unacceptable the possibility that some States escaped scrutiny by not fulfilling their reporting obligations, while those that were conscientious were held to account. It therefore agreed that all treaty bodies should develop a practice whereby the situation in a non-reporting State party could be examined in the absence of a report.

D. Problems in relation to documentation

7. The Government of New Zealand agreed with the independent expert that further work must be done on the question of documentation. The Government expressed the view that the body of reports should be limited to approximately 30 to 40 pages and that States parties should be encouraged to present more detailed information, including relevant statistics, in an annex to their reports. Initial reports could be excluded from this limit. The Government expressed particular support for the suggestion that special measures should be adopted to streamline reporting procedures for small States.

I. Consolidation of reports and treaty bodies

8. The Government of New Zealand suggested that, as a short-term measure, periodic reports should focus principally on addressing comments made during the consideration of the preceding report, as well as significant new

developments. This would not affect the reporting obligations for initial reports, which should continue to be comprehensive. It invited treaty bodies to provide guidance on the issues that they wished to see reflected in the next periodic report. While this could be reflected in its concluding observations, additional guidance would be useful to ensure that the issues of most interest are addressed as a priority. The Government indicated that its delegations would seek such guidance in the future.

9. As another short-term measure, the Government of New Zealand suggested that the harmonization of reporting dates and cycles for States parties to a number of treaties could assist in the identification and elimination of duplication of effort. This might enable a more comprehensive picture of the human rights environment in a particular State to be presented. It could be accompanied by the development of a thorough system of cross-referencing of information provided in reports, a more comprehensive core document, or consolidation in one document of information common to a number of reports. The Government considered a useful model for other treaty bodies the practice of the Committee of the Rights of the Child of allowing reports to address common themes by clusters of related articles.

10. While it therefore considered some degree of consolidation in national reporting to be desirable, the Government of New Zealand expressed concern that the consolidation of reports due under all the treaties would make it difficult to ensure a meaningful review of the provisions of individual treaties. Similarly, in examining the possibility of consolidating the treaty bodies into one, it considered that the ability of one body to address effectively the wide range of human rights issues covered by the core treaties should be a primary consideration. The Government expressed support for the recommendation that a small expert group meeting be convened to examine the modalities for further reforms of the treaty system, including possibilities for consolidation of the treaty bodies.

J. Amending the treaties

11. The Government of New Zealand agreed that more flexible amendment procedures for procedural elements of the six treaties were required to enable the treaty bodies to respond to the need for reform.

M. The quality of concluding observations

12. The Government of Sweden expressed the view that treaty bodies must strive to further improve the quality of their concluding observations. Concluding observations should be formulated so as to be detailed, accurate and comprehensive: if they are not, the treaty bodies risk losing credibility and the political will to have them implemented will diminish.

N. Other issues

13. The Government of Sweden expressed deep concern at the high number of communications that were pending examination by the treaty bodies. It considered that an increase of staff composed of experienced skillful lawyers within the Office of the High Commissioner for Human Rights was necessary to remedy the situation.